

SENATE BILL No. 451

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13.6-8-7; IC 36-1-12.5-5.

Synopsis: Energy savings contracts. Provides that the maximum term of a guaranteed energy cost savings contract or a utility efficiency program is 20 years. (Current law provides for maximum terms of ten and 15 years.)

Effective: July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Utilities & Technology.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 451

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13.6-8-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After reviewing
3 the proposals submitted and after receiving a recommendation from the
4 budget committee, the department may approve an energy cost savings
5 contract with a qualified provider that best meets the needs of the
6 governmental body if the department reasonably expects the cost of the
7 qualified energy savings project recommended in the proposal would
8 not exceed the amount to be saved in:
9 (1) energy costs;
10 (2) operational costs; or
11 (3) both energy and operational costs;
12 not later than ~~ten (10)~~ **twenty (20)** years after the date installation is
13 completed if the recommendations in the proposal are followed.
14 (b) An energy cost savings contract must include a guarantee from
15 the qualified provider to the state that:
16 (1) energy cost savings;
17 (2) operational cost savings; or



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(3) both energy and operational cost savings;
will meet or exceed the cost of the qualified energy project not later
than ~~ten (10)~~ **twenty (20)** years after the date installation is completed.

SECTION 2. IC 36-1-12.5-5, AS AMENDED BY P.L.168-2006,
SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 5. (a) The governing body may enter into an
agreement with a public utility to participate in a utility efficiency
program or enter into a guaranteed savings contract with a qualified
provider to increase the political subdivision's billable revenues or
reduce the school corporation's or the political subdivision's energy or
water consumption, wastewater usage costs, or operating costs if, after
review of the report described in section 6 of this chapter, the
governing body finds:

(1) in the case of conservation measures other than those that are
part of a project related to the alteration of a water or wastewater
structure or system, that the amount the governing body would
spend on the conservation measures under the contract and that
are recommended in the report is not likely to exceed the amount
to be saved in energy consumption costs and other operating costs
over ~~ten (10)~~ **twenty (20)** years from the date of installation if the
recommendations in the report were followed;

(2) in the case of conservation measures that are part of a project
related to the alteration of a water or wastewater structure or
system, that the amount the governing body would spend on the
conservation measures under the contract and that are
recommended in the report is not likely to exceed the amount of
increased billable revenues or the amount to be saved in energy
and water consumption costs, wastewater usage costs, and other
operating costs over ~~fifteen (15)~~ **twenty (20)** years from the date
of installation if the recommendations in the report were
followed; and

(3) in the case of a guaranteed savings contract, the qualified
provider provides a written guarantee as described in subsection
(d)(3).

(b) Before entering into an agreement to participate in a utility
efficiency program or a guaranteed savings contract under this section,
the governing body must publish notice under subsection (c)
indicating:

(1) that the governing body is requesting public utilities or
qualified providers to propose conservation measures through:

- (A) a utility efficiency program; or
- (B) a guaranteed savings contract; and

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(2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political

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- 1 subdivision within the meaning of a constitutional or statutory
- 2 debt limitation.
- 3 (e) An agreement or a contract under this chapter is subject to
- 4 IC 5-16-7.

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